

Message

From: Short, Thomas [short.thomas@epa.gov]
Sent: 5/29/2019 7:06:12 PM
To: Walts, Alan [walts.alan@epa.gov]; Thiede, Kurt [thiede.kurt@epa.gov]
CC: Borries, Samuel [borries.samuel@epa.gov]; Ballotti, Doug [ballotti.douglas@epa.gov]
Subject: RE: Recap Meeting with Regional Administrator Stepp and Southeast Side Community Representatives

If we're going to get into a conversation about SF removal flexibility I'd like Sam Borries to participate, if possible. These conversations can go off on unintended tangents and I don't want to put our removal program into a bad spot.

From: Walts, Alan
Sent: Wednesday, May 29, 2019 1:51 PM
To: Thiede, Kurt <thiede.kurt@epa.gov>; Short, Thomas <short.thomas@epa.gov>
Subject: Fwd: Recap Meeting with Regional Administrator Stepp and Southeast Side Community Representatives

Bulk of this conversation will be about flexibility in applying SFD guidance so I want to be sure SFD is ready to engage on that (not necessarily with solid answers of course).

Begin forwarded message:

From: Deborah Gail Musiker <Debbie.M.Chizewer@law.northwestern.edu>
Date: May 29, 2019 at 2:48:01 PM EDT
To: "Harley, Keith" <kharley@kentlaw.iit.edu>
Cc: "Walts, Alan" <walts.alan@epa.gov>, "Geertsma, Meleah" <mgeertsma@nrdc.org>, "Thiede, Kurt" <thiede.kurt@epa.gov>, "Short, Thomas" <short.thomas@epa.gov>
Subject: RE: Recap Meeting with Regional Administrator Stepp and Southeast Side Community Representatives

All,

Checking back on this. I hope we are all set to speak this Friday at 9 am. Please let us know if you will send around a call-in number, Alan, or whether you need me to do so.

Thanks much,

Debbie

Debbie (Musiker) Chizewer
Montgomery Environmental Law Fellow
Environmental Advocacy Clinic
Bluhm Legal Clinic
Northwestern University School of Law
375 E. Chicago Avenue, Chicago, IL 60611-3069
Debbie.M.Chizewer@law.northwestern.edu
312-503-4253

From: Harley, Keith <kharley@kentlaw.iit.edu>

Sent: Monday, May 20, 2019 9:51 AM

To: Deborah Gail Musiker <Debbie.M.Chizewer@law.northwestern.edu>

Cc: Walts, Alan <walts.alan@epa.gov>; Geertsma, Meleah <mgeertsma@nrdc.org>; Thiede, Kurt <thiede.kurt@epa.gov>; Short, Thomas <short.thomas@epa.gov>

Subject: Re: Recap Meeting with Regional Administrator Stepp and Southeast Side Community Representatives

That works for me.

- Keith (312) 726-2938

On Mon, May 20, 2019 at 9:46 AM Deborah Gail Musiker <Debbie.M.Chizewer@law.northwestern.edu> wrote:

Does 5/31 at 9 am work for everyone?

Debbie Chizewer
Northwestern Pritzker Law
Environmental Advocacy Center
312-503-4253

On May 20, 2019, at 9:28 AM, Walts, Alan <walts.alan@epa.gov> wrote:

Sorry Debbie – I will be on travel that day. Could we possibly do 5/31, or 6/3?

Director, Multi-media Programs Office
U.S. EPA, Region 5

Phone: (312) 353-8894

From: Deborah Gail Musiker <Debbie.M.Chizewer@law.northwestern.edu>

Sent: Monday, May 20, 2019 9:13 AM

To: Walts, Alan <walts.alan@epa.gov>

Cc: Geertsma, Meleah <mgeertsma@nrdc.org>; Harley, Keith (kharley@kentlaw.iit.edu) <kharley@kentlaw.iit.edu>; Thiede, Kurt <thiede.kurt@epa.gov>; Short, Thomas <short.thomas@epa.gov>

Subject: Re: Recap Meeting with Regional Administrator Stepp and Southeast Side Community Representatives

Thanks, Alan.

Can we schedule a call for 5/30 morning—9:30 am?

Best,

Debbie Chizewer

Northwestern Pritzker Law

Environmental Advocacy Center

312-503-4253

On May 17, 2019, at 8:59 AM, Walts, Alan <walts.alan@epa.gov> wrote:

Good morning Debbie – thanks very much for your note and the additional information. I think it would make sense for us to set up a phone call to discuss these items. Please let me know some dates that would work and I'll coordinate here.

Best,

Alan

Director, Multi-media Programs Office
U.S. EPA, Region 5

Phone: (312) 353-8894

From: Deborah Gail Musiker
<Debbie.M.Chizewer@law.northwestern.edu>
Sent: Wednesday, May 15, 2019 11:04 AM
To: Walts, Alan <walts.alan@epa.gov>
Cc: Geertsma, Meleah <mgeertsma@nrdc.org>; Harley, Keith
(kharley@kentlaw.iit.edu) <kharley@kentlaw.iit.edu>; Thiede,
Kurt <thiede.kurt@epa.gov>
Subject: RE: Recap Meeting with Regional Administrator Stepp
and Southeast Side Community Representatives

Hi Alan,

Thanks for this note. I want to focus this note on #5, but we will get back to you on the rest of the items in short order.

We appreciate EPA's willingness to continue a dialogue. To this end, we have some questions and responses below. We are also happy to discuss this questions on the phone.

MANGANESE

1. We understand that EPA has committed that it would undertake removal at all properties where the manganese levels in the soil exceed 5,500 ppm.

2. We asked RA Stepp to look at undertaking removal at a greater number of properties, including properties where the Manganese levels in the soil are higher than 1,600 ppm but lower than 5,500 ppm. She said something to the effect that—on a case-by-case situation—EPA does use a lower number for removal if there are sensitive populations or other special considerations.

RA Stepp indicated that EPA could consider employing a number lower than 5,500 ppm based on sensitive population factors (e.g., children under 7, pregnant women, etc) in case-by-case situations. She did not commit to applying a lower standard, but she indicated a willingness to consider it.

The universe of additional properties that may be eligible for expansion of remediation plans is small. Approximately half of the tested properties (40-45) have Mn levels that exceed 1,600 ppm, but are less than 5,500 ppm. Of that subset, not all homes will have children under 7 or pregnant women; a small group of properties may fit this category here. Presumably, EPA identify families living on properties with Manganese levels exceeding 1,600 ppm and where there are sensitive populations.

LEAD

3. We agree with you that the Superfund Lead Contaminated Sites Handbook defines Tier 1 properties to include properties exceeding 1,200 ppm with sensitive populations. However, that number is not a set-in-stone and EPA has the ability to adapt it based on the site conditions.

Moreover, the Tier 1 also includes properties where children have blood lead levels that exceed 10 ug/dL. [See page. 34.] This also makes clear the need for EPA/ATSDR to work with the City of Chicago or State of Illinois to offer—at a minimum—blood lead level screening in the SH Bell neighborhood.

4. There are situations in R5 where EPA has included in the scope of removal properties where the lead levels exceed 400 ppm and there are sensitive populations and/or children with lead levels exceeding 10 ug/dL.* Please see attached Example which is an Administrative Order on Consent for removal actions at the USS Lead Site in East Chicago, IN. [See page. 6-7, qq(3).] We believe similar treatment is warranted here.

5. The fact sheet does state that lead levels in the soil exceeding 400 ppm will not necessarily mean that there is a cleanup; it also does not say that those properties definitely will not be cleaned up. We think there is an opportunity, under existing guidance, to help more families by considering where there are sensitive populations in a home and lead levels above 400 ppm. As suggested above, it is an imperative that we understand if children living on these lead-contaminated properties have elevated blood lead levels.

We are happy to discuss this further.

Thanks,

Debbie Chizewer

312-503-4253

*Notably, the 10 ug/dL blood lead action level is not even the most up to date standard. The Center for Disease Control has clearly stated that no lead level is safe and applies a blood lead action level of 5 ug/dL.

From: Walts, Alan <walts.alan@epa.gov>
Sent: Thursday, May 09, 2019 9:55 AM
To: Deborah Gail Musiker
<Debbie.M.Chizewer@law.northwestern.edu>
Cc: Geertsma, Meleah <mgeertsma@nrdc.org>; Harley, Keith
(kharley@kentlaw.iit.edu) <kharley@kentlaw.iit.edu>; Thiede,
Kurt <thiede.kurt@epa.gov>
Subject: RE: Recap Meeting with Regional Administrator Stepp
and Southeast Side Community Representatives

Thanks for this recap Debbie – here are some notes from us in response.

On item #3, Supplemental Environmental Projects, we propose adding more detail to recognize the multiple ideas that were discussed, and to clearly reflect the requirements of EPA’s SEP policy:

1. The EJ program will work with community leaders to collect potential SEP ideas that will be a useful resource for our compliance assurance programs.
2. The EJ program can help to facilitate general community/facility dialogue (including general education on the SEP policy) outside the context of any pending enforcement action.
3. Where there are active enforcement cases that present potential SEP opportunities, Region 5 compliance assurance programs will consider SEP ideas from community members; will “encourage defendants to seek community input as early in the SEP development process as possible”; and will seek additional community input on SEPs for those particular cases. (As stated in EPA’s 2015 SEP policy, attached.)
4. These commitments are made in the context of the requirements and limitations laid out in EPA’s SEP policy – see especially pages 18-19 for the factors EPA will

consider, and for the constraints involved when there are ongoing settlement negotiations.

On item #4, Air Monitoring and Other Data: we strongly support transparency and are glad to help promote data sharing in southeast Chicago by engaging with our state and local partners. As part of this, we will make our air monitoring data for facilities in this area publicly accessible, subject to our duties to protect certain data (e.g., where that data is enforcement confidential). We also look forward to working with you and other state and local partners to understand cumulative impacts and explore the range of approaches available to help address such impacts. We welcome continuing dialogue with you on these important points.

On item #5, for S.H. Bell, it seems we walked away with different understandings of how our Removal Management Level (RML) guidance would be applied. We welcome further dialogue on this point so we can reach a shared understanding of when EPA might deviate from this guidance; and of the differences in scope of work between our removal and remedial programs. We would restate the commitments as:

1. EPA will evaluate the opportunity to undertake removal actions at properties with levels of manganese that exceed 5,500 ppm. As we discussed during the April 16th meeting, this is the level identified in EPA guidance. While we recognize (as also discussed) that this guidance can be deviated from in particular cases, we did not commit to use a health-based standard in the place of this RML. We propose further discussion on this point as needed to make sure we have a clear mutual understanding about how EPA will apply its guidance.
2. The RML level for lead is 400ppm; and EPA will apply its Lead Handbook guidance to evaluate the opportunity to undertake removal actions at properties that meet the “Tier 1” criteria: levels of lead exceeding 1,200 ppm with sensitive populations (i.e., where homes include children under 7 years old or pregnant women), applying the removal program data that has been collected in the area around SH Bell.
 - a. We have tried to state this clearly in the community fact sheet, which states that a lead level exceeding 400 ppm does not necessarily mean we will take an action.

- b. We want to make sure this standard is clearly communicated, and invite input on specific places where EPA's communication materials can be clearer about the removal level for this investigation.
3. EPA will directly provide to this group its signed "decision document" regarding the remediation of properties in the residential area surrounding SH Bell as soon as possible after the document is signed.

On item #5, for Watco:

1. EPA will undertake a soil investigation on residential properties to the south and southeast of the Watco facility.
2. EPA will prioritize soil investigation at the baseball field which is used for children's little league games; and will communicate sampling results when they are available.

We are looking forward to seeing community recommendations on signage for Shroud. In addition, I would like to go ahead and arrange a site visit for Cathy – please let me know some possible dates over the coming month or two and I'll work to get that scheduled.

Best,

Alan

Director, Multimedia Programs Office
U.S. EPA, Region 5

Phone: (312) 353-8894

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From: Deborah Gail Musiker
<Debbie.M.Chizewer@law.northwestern.edu>
Sent: Monday, April 29, 2019 4:10 PM
To: Walts, Alan <walts.alan@epa.gov>; Thiede, Kurt
<thiede.kurt@epa.gov>
Cc: Geertsma, Meleah <mgeertsma@nrdc.org>; Harley, Keith

(kharley@kentlaw.iit.edu) <kharley@kentlaw.iit.edu>

Subject: Recap Meeting with Regional Administrator Stepp and Southeast Side Community Representatives

Importance: High

Dear Regional Administrator Stepp,

Thank you for making the time to meet with us on April 16, 2019. We appreciated the opportunity to share the public health and environmental concerns facing the Southeast Side of Chicago.

We are grateful for your attention to addressing these pressing environmental justice issues and keeping an ongoing dialogue. Please see below our understanding of the commitments made and next steps:

1. Continued Engagement:

- a. Regional Administrator Stepp and her team will come for a Southeast Side tour.
- b. Regional Administrator Stepp and her team will meet with the group of community leaders and advocates on a quarterly basis, beginning with a meeting to be held on the Southeast Side in conjunction with the tour.
- c. Community leaders would like to include the Chicago Department of Public Health in at least one meeting.

2. Schroud Site Signage and Fencing:

- a. Community leaders will provide EPA Region 5 with preferences for signage design and EPA will implement these proposals to the maximum extent possible.
- b. Community leaders will make recommendations for appropriate fencing locations to deter use of the extremely dangerous Schroud site.

3. Supplemental Environmental Projects for the SE Side:

Alan Walz will facilitate meetings with community leaders and local facilities under enforcement actions to further supplemental environmental

projects that originate in and receive approval from the community, and are primarily facilitated by community members, and reflect the connection between industrial pollution in the community and the public health and environmental impacts in the community.

4. Air Monitoring and Other Data:

- a. EPA Region 5 will promote the public accessibility of air monitoring data in the community by coordinating with local and state agencies to share and post data.
- b. EPA Region 5 will work with state and local partners to understand cumulative impacts in the community.
- c. EPA will make accessible all air monitoring data for facilities within Region 5.

5. Manganese/Lead in Soil Investigation and Remediation:

- a. SH Bell:
 - i. EPA will evaluate the opportunity to undertake removal actions at properties with levels of manganese that exceed 1,600 ppm, including, for example, expediting remediation where homes include children under 7 years old, pregnant women, other health-compromised individuals, or homes where visiting children spent a significant number of hours in the home (even if they do not live there).
 - ii. EPA will respond to our questions regarding the standard it will apply as action levels for the removal of lead in soil in the residential area surrounding the SH Bell facility. We specifically discussed that EPA's materials reference 400 ppm as the appropriate removal level for this investigation. It will also look for opportunities to address contamination at properties with lead levels exceeding 400 ppm.
 - iii. EPA will alert this group when it releases its "decision document" regarding

the remediation of properties in the
residential area surrounding SH Bell

b. Watco:

- i. EPA has committed to
immediately undertaking soil investigation
in the area surrounding the Watco facility.
- ii. EPA will prioritize soil investigation at
the baseball field which is used for
children's little league games.
- iii. We also request that EPA alert the
community to the possibility of
contaminated soil at the baseball field as
soon as possible.

We look forward to hearing from you soon and continuing our
dialogue.

Best,

Southeast Environmental Task Force: Peggy Salazar; Yessenia
Balcazar; Keith Harley (attorney); Daryl Grable (attorney)

Southeast Side Coalition to Ban Petcoke; Martha Allen; Kelly
Nichols; Debbie Chizewer (attorney)

Natural Resources Defense Council: Meleah Geertsma